MONTANA LEGISLATIVE HISTORY

Chapter 477 1997

Bill H _____ S 445 Original bill & history ✓C

H. Committee on Local Government		S. Committee on Local Government	
Hearing Date(s) Apr 12	✓C	Hearing Date(s) Mar 23	✓C
_____	___C	Mar 25	✓C
_____	___C	Mar 30	✓C
_____	___C	Apr 04	✓C
Date Out Apr 12	✓C	Apr 04	___C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

Senate BILL NO. 415

INTRODUCED BY LOCKROEM

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR NONPARTISAN ELECTIONS, TO PROVIDE FOR THE AMENDMENT OF SELF-GOVERNMENT CHARTERS, AND TO OTHERWISE REVISE AND CLARIFY LOCAL GOVERNMENT LAWS."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Nonpartisan nomination. (1) Each candidate for a nonpartisan primary election shall send a declaration of nomination, as prescribed in 23-3304, to the appropriate election official of the local government in which he seeks office not later than 5 p.m. 40 days prior to the date of the primary election.

(2) A candidate successfully completing the requirements of this section shall have his name entered on the nonpartisan primary election ballot as provided in [section 2].

Section 2. Nonpartisan primary ballot and election. (1) Except as otherwise provided in this section, a nonpartisan primary election shall be conducted, canvassed, and its results returned in the same manner as a partisan primary election.

(2) Ballots in a nonpartisan primary election shall

contain only the name of the candidate and the office to which the candidate seeks election.

(3) Electors voting at a nonpartisan primary election may vote for the number of candidates to be elected to each office.

(4) If the number of candidates to be entered on the nonpartisan primary ballot for each office does not exceed twice the number of candidates to be elected for the respective offices, a nonpartisan primary election shall not be held in that year and all candidates entered on the nonpartisan primary ballot shall be considered nominated for their respective offices and shall have their names placed on the nonpartisan general election ballot. If the number of candidates to be entered on the nonpartisan primary ballot for any particular office does exceed twice the number of persons to be elected to that office, a primary election shall be held for all offices to be voted on at the general election.

(5) Candidates for nomination, equal to twice the number to be elected at the nonpartisan general election for that office, who receive the highest number of votes cast at the nonpartisan primary or nominees determined under subsection (4) of this section are nominees for office and shall have their names entered on the nonpartisan general election ballot.

(6) In municipalities with a population of 3,500 or less, a primary election is not required and candidates shall have their names entered on the general election ballot by filing a declaration of nomination not later than 5 p.m. 40 days before the date of the election.

Section 3. Nonpartisan general elections. A nonpartisan general election shall be conducted, canvassed, and its results returned in the same manner as a partisan general election except that party designation may not appear on the ballot.

Section 4. Amendment of self-government charters. (1) An amendment to a self-government charter may only be made by submitting the question of amendment to the electors of the local government. To be effective, a proposed amendment must receive an affirmative vote of a majority of the electors voting on the question. An amendment approved by the electors becomes effective on the first day of the local government fiscal year following the fiscal year of approval unless the question submitted to the electors provides otherwise.

(2) An amendment to a self-government charter may be proposed by initiative by petition of 15% of the electors of the local government or by ordinance enacted by the governing body. The question on charter amendment shall be submitted to the electors as soon as possible after the

submission of a petition or enactment of a resolution, either at a regularly scheduled election or at a special election.

(3) The local government, by ordinance, may provide procedures for the submission and verification of initiative petitions.

-End-

under which local governments are operating.

Glen Drake, Montana League of Cities and Towns felt that HB 122 is deserving of a thorough study by the Legislature and expressed support for this Resolution.

Hershel Robbins, Representative from District #46, expressed support for Resolution 39.

Dale Harris, representing himself, said that he would support SJR 39 as an opportunity for the Senate and House to understand that HB 122 is not a monster and that it does have sufficient merit.

There were no opponents to SJR 39.

DISPOSITION OF SJR 39: Senator Watt moved that SJR 39 Do Pass, motio seconded by Senator Peterson. Motion carried unanimously.

CONSIDERATION OF SB 445: Senator Lockrem, sponsor of the bill, appeared before the committee. He called this a "mini" 122, and felt that it is all that is left for local governments. It will, however, need a 2/3 vote for suspension of the rules to be accepted by the House so the responsibility for getting this bill into the proper form will be left to the Senate because the House will not have sufficient time to spend on it.

Hershel Robbins, Representatiave, agreed that it will take a 2/3 vote for suspension but did feel they would get it. It will not allow the House to do much with the bill once it goes out of the Senate because of lack of time.

Glen Drake, League of Cities and Towns, supported the bill, however, Dan Mizner has an amendment to Section 4 of the bill and Mr. Drake will have these amendments to the committee as soon as possible.

DISCUSSION OF SB 445: Mr. Larry Weinberg, staff attorney for the Legislative Council, was asked if the procedures in the amendments were taken right out of HB 122. He stated that the amendments try to pick up some problem areas that will enable the local governments to function.

Section 5 was taken right out of HB 122; Section 6 is present law; Section 7 is present law for municipalities. (This would provide it for counties); Section 8 again taken out of HB 122; Section 9 - out of HB 122, as amended in the House (if a signor of a petition is a defendant in a law suit the city will pick up the legal costs). In any consolidated form of government are ordinances addressed to cities and counties so dissimilar that they cannot be used? Mr. Weinberg stated that there are no ordinances for counties right now. In answer to a question if they could use the ordinances for municipalities, he replied that they probably could but they would be subject to law suits.

Mr. Weinberg suggested some additional changes to the proposed amendments, namely "sections 4, 6, 14, 15, 16 and 17" be added in Section 11. Section 12 should have a catch line: "Scope of Act". Section 13 is taken from HB 122. He also pointed out that there is a possibility of conflict with HB 438.

DISCUSSION BY THE COMMITTEE: Senator Lockrem asked Mr. Harris if there was not 19 cities that voted for alternat e forms of government in four counties, and are all of them charters? He answered that there were 16 charters of the 19 self governments. There is no procedure for amending their alternate forms in the next two years.

Chairman McCallum asked if the cities that kept their present form of government could amend that form. Mr. Weinberg said yes, they could submit it to the electors and a majority would have to accept it.

JoAnn Woodgerd stated that there would be a conflict with HB 438. She strongly urged the Committee to come up with one which would be the same; to clarify if the committee wants petitions and amend it into SB 445. Also felt that there should be a definition of what the number of qualified electors is based on for petitions. The Committee asked Mr. Weinberg to include this in the gray bill that he is going to have printed for the committee to study.

Senator Story asked several questions of Mr. Harris, one being, when did he know that what was being done was not complete? Mr. Harris replied that he knew as early as September, 1973, when the Governor proposed a step by step process for implementing the Constitutional provisions. There was a significant amount of research and planning that needed to be done. In 1975 approval was given the procedures for submitting alternative forms to the voters. The legislature has chosen not to adopt 122. Budget laws and issuance of bonds - these issues need to be adjusted - which budget law they are going to be under.

Mr. Weinberg was asked to prepare the attached amendments to carry the local governments through the next two years. There are some areas that are critical. Mr. Harris said that the governments could get by the next couple of years if the committee does not clean this up but there would be questionable areas.

DISPOSITION OF HB 659: Senator Thomas moved that HB 659 Be Concurred In, motion seconded by Senator Peterson. Motion carried unanimously.

DISCUSSION OF HB 801: Senator Watt moved that HB 801 Be Concurred In Since there are proposed amendments by Senator Dunkle, this was held for executive session and to review the amendments.

Meeting adjourned 11:00 a.m.

George McCallum

George McCallum, Chairman

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should be within the PSC.

It was felt that the use of one meter would encourage people to use more electricity.

In closing, Rep. Fagg disagreed with the above feeling. In a business that is open from 8 to 5 there is going to be a certain amount of electricity used and one meter will not encourag anyone to use a larger amount.

CONSIDERATION OF HOUSE BILL 521: Senator Dunkle, Senator Peterso and Senator Lockrem were assigned as a subcommittee to work on this bill with Dunkle chairman.

DISPOSITION OF SENATE BILL 445: The bill was printed in grey bill with the amendments color coded. Senator Lockrem moved the adopti of the yellow amendments, which are Senator Story's and the Secret of State's amendments, on pages 1 and 14. Dunkle seconded the motion, motion carried unanimously.

Senator Lockrem moved the adoption of the blue amendments, which are his amendments prepared by Larry Weinberg of the Legisl Council, excluding page 12, part of line 11, all of line 12 and 1 and excluding (4) and (5) on pages 7 and 8. Dunkle seconded the motion, motion carried unanimously.

Senator Dunkle moved that the green amendments, submitted by Glen Drake, on pages 3 and 4, be not adopted. Lockrem seconded t motion, motion carried unanimously.

Senator Watt moved the pink amendments, submitted by Dale Ha on page 15. The motion was seconded by Peterson and was carried unanimously.

Senator Story moved to insert an effective date of May 1, 19 Seconded by Peterson, motion carried unanimously.

Senator Lockrem moved that SB 445 Do Pass As Amended, second by Peterson. Motion carried unanimously.

Senator Lockrem will carry this bill on the floor and has on more amendment to be made but will make it on second reading so t the bill can go to the floor with the above amendments. Also as the Committee members to speak on any part of the bill or amendme that they are particularly interested in when it comes up for de on the floor.

Meeting adjourned 10:55 a.m.

George McCallum

Senator George McCallum, Chairm

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Following the meeting Chairman McCallum appointed a subcommittee [illegible] consisting of Senators Lockrem, Peterson and Thomas.

STANDING COMMITTEE REPORT

March 25 19 77

MR. President

We, your committee on Local Government

having had under consideration Senate Bill No. 445

Respectfully report as follows: That Senate Bill No. 445

introduced bill, be amended as follows:

1. Amend title, line 6.
Following: "CHARTERS,"
Insert: "or adopted alternative forms of local government, to provide for enactment of ordinances and resolutions, to provide for local government initiative and referendum, to provide for the operation of consolidated units of local government,"

2. Amend title, line 7.
Following: "LAWS"
Insert: "; amending Section 23 of Chapter 513 of Laws, 1975, and providing an effective date"

3. Amend page 1, section 1, line 15.
Following: "election."
Insert: "The declaration shall be accompanied by a petition signed by at least 25 electors of the local government requesting the candidacy."

~~DO PASS~~

CONTINUED

Chairman.

STATE PUB. CO.
Helena, Mont.

4. Amend page 1, section 1, line 15.
Following: "election."
Insert: "The declaration shall be accompanied by a petition signed by at least 25 electors of the local government requesting the candidacy."

5. Amend page 3, section 4, line 11.
Following: "charters"
Insert: "or adopted alternative forms of government."

6. Amend page 3, section 4, line 12.
Following: "charter"
Insert: "or an adopted alternative form of government"

7. Amend page 3, section 4, line 21.
Following: "charter"
Insert: "or an adopted alternative form of government"

8. Amend page 3, section 4, line 24.
Following: "question on"
Strike: "charter"
Following: "amendment"
Insert: "of a charter or an adopted alternative form of government"

9. Amend page 4, section 4, line 6.
Following: line 6
Insert: "Section 5. Ordinance requirements. (1) All ordinances shall be submitted in writing in the form prescribed by resolution of the governing body.

(2) No ordinance passed shall contain more than one comprehensive subject which shall be clearly expressed in its title, except ordinances for codification and revision of ordinances.

(3) An ordinance must be read and adopted by a majority vote of members present at two meetings of the governing body not less than 12 days apart. After the first adoption and reading, it must be posted and copies made available to the public.

(4) In the event of an emergency, the governing body may waive the second reading. An ordinance passed in response to an emergency shall recite the facts giving rise to the emergency and requires a two-thirds vote of the whole governing body for passage. An emergency ordinance shall be effective on passage and approval and shall remain effective for no more than 90 days.

(5) After passage and approval, all ordinances shall be signed by the chairman of the governing body and filed with the official or employee designated by ordinance to keep the register of ordinances.

(6) No ordinance other than an emergency ordinance shall be effective until 30 days after second and final adoption. The ordinance may provide for a delayed effective date or may provide for the ordinance to become effective upon the fulfillment of an indicated contingency.

(7) If the plan of government allows the chief executive to veto an ordinance, this power must be exercised in writing prior to its next regularly scheduled meeting of the governing body. Whenever the chief executive vetoes an ordinance, the governing body must act at the next regularly scheduled meeting to either override or confirm the veto. Whenever the veto is overridden or the executive fails to act, the ordinance shall take effect.

(8) There shall be maintained a register of ordinances in which all ordinances are entered in full after passage and approval, except when a code is adopted by reference. When a code is adopted by reference, the date and source of the code shall be entered.

(9) (A) No later than 1980 and at 5 year intervals thereafter appropriate ordinances shall be compiled into a uniform code and published.

(B) The recodification is not effective until approved by the governing body.

Section 6. Adoption and amendment of codes by reference. (1) Any local government may adopt or repeal an ordinance which incorporates by reference the provisions of any code or portions of any code, or any amendment thereof, properly identified as to date and source, without setting forth the provisions of the code in full. Notice of th intent to adopt a code by reference shall be published after first reading and prior to final adoption of the code. At least one copy of the code, portion, or amendment which is incorporated or adopted by reference shall be filed in the office of the clerk of the governing body and there kept available for public use, inspection, and examinati The filing requirements herein prescribed shall not be considered to be complied with unless the required copies of the codes, portion, amendme or public record are filed with the clerk of the governing body for a period of 30 days prior to final adoption of the ordinance which incorporates the code, portion, or amendment by reference.

(2) The governing body may adopt or amend a code by reference by an emergency ordinance and without notice. The emergency ordinance is automatically repealed 90 days following its adoption and cannot be reenacted as an emergency ordinance.

(3) The process for repealing an ordinance which adopted or amend a code by reference shall be the same as for repealing any other ordinance.

(4) The filing requirement of subsection (1) of this section shall be complied with in adopting amendments to codes.

(5) Any ordinance adopting a code, portion, or amendment by reference shall state the penalty for violating the code, portion, or amendment, or any provision thereof separately, and no part of any penalty shall be incorporated by reference.

(6) For purposes of this section, "code" means any published compilation of rules which has been prepared by various technical trade associations, model code organizations, federal agencies, or this state or any agency thereof; and shall include specifically but shall not be limited to: traffic codes, building codes, plumbing codes, electrical wiring codes, health or sanitation codes, fire prevention codes, inflammable liquids codes, together with any other code which embraces rules pertinent to a subject which is a proper local government legislative matter.

Section 7. Penalty for violation of ordinance. A local governme may fix penalties for the violation of an ordinance which do not exce a fine of $500 or 6 months' imprisonment or both the fine and imprison ment.

Section 8. Resolution requirements. (1) All resolutions shall submitted in the form prescribed by resolution of the governing body.

(2) Resolutions may be submitted and adopted at a single meeting of the governing body.

(3) If the plan of government allows the executive to veto resolutions, this power must be immediately exercised in writing at the same meeting. If the executive fails to act, the resolution shall be approved. If the executive vetoes a resolution, the governing body must act at the same meeting or its next regularly scheduled meeting to either override or confirm the veto.

(4) After passage and approval, all resolutions shall be entered into the minutes and signed by the chairperson of the governing body.

(5) All resolutions shall be immediately effective unless a delayed effective date is specified.

Section 9. Initiative and referendum. (1) The powers of initiative and referendum are reserved to the electors of each local government. Resolutions and ordinances within the legislative jurisdiction and power of the governing body of the local government, except those set out in subsection (2) of this section, may be proposed or amended and prior resolutions and ordinances may be repealed in the manner provided in this section.

(2) The powers of initiative shall not extend to the following:

(a) The annual budget;

(b) Property tax levies;

(c) Bond proceedings, except for ordinances authorizing bonds;

(d) The establishment and collection of charges pledged for the payment of principal and interest on bonds; or

(e) The levy of special assessments pledged for the payment of principal and interest on bonds.

(3) The electors may initiate and amend ordinances and require submission of existing ordinances to a vote of the people by petition. If submitted prior to the ordinance's effective date, a petition requesting a referendum on the ordinance shall delay the ordinance's effective date until the ordinance is ratified by the electors. A petition requesting a referendum on an emergency ordinance filed within 30 days of its effective date shall suspend the ordinance until ratified by the electors.

(4) The governing body may refer existing or proposed ordinances to a vote of the people by resolution.

(5) A petition or resolution for initiative or referendum shall:

(a) Embrace only a single comprehensive subject;

(b) Set out fully the ordinance sought by petitioners, or in the case of an amendment, set out fully the ordinance sought to be amended and the proposed amendment, or in the case of referendum, set out the ordinance sought to be repealed; and

(c) Contain the signatures of 15% of the electors of the local government.

(6) (a) The governing body may, within 60 days of receiving the petition, take the action called for in the petition. If the action is taken, the question need not be submitted to the electors.

(b) If the governing body does not, within 60 days, take the proposed action, then the question shall be submitted to the electors at the next school, primary, or general election or a special election called for that purpose. Before submitting the question to the electors, the governing body may direct that a suit be brought in district court by the local government to determine whether the petition is regular in form, has sufficient signatures, and whether the proposed action would be valid and constitutional.

(c) The complaint shall name as defendants not less than 10 or more than 20 of the petitioners. In addition to the names of the

defendants, to the caption of the complaint there shall be added the words: "And all petitioners whose names appear on the petition for an ordinance filed on the ____ day of _____, in the year _____", stating the date of filing. The summons shall be similarly directed and shall be served on the defendants named therein, and in addition shall be published.

(d) If an ordinance is repealed or enacted pursuant to a proposal initiated by the electors of a local government, the governing body may not for 2 years reenact or repeal the ordinance. If during the 2-year period the governing body enacts an ordinance similar to the one repealed pursuant to a referendum of the electors, a suit may be brought to determine whether the new ordinance is a reenactment without material change of the repealed ordinance. This section shall not prevent exercise of the initiative, at any time, to procure a re-enactment of an ordinance repealed pursuant to referendum of the electors.

(7) (a) Any ordinance proposed by petition or any amended ordinance proposed by petition or any referendum on an ordinance which is entitled to be submitted to the electors shall be voted on at the next regular election to be held in the local government unless:

(i) The petition asks that the question be submitted at a special election and is signed by at least 25% of the electors of the local government, in which case the governing body shall call a special election; or

(ii) The governing body calls for a special election on the question.

(b) If the adequacy of the petition is determined by the elections administrator less than 45 days prior to the next regular election, the election shall be delayed until the following regular election, unless a special election is called.

(c) Whenever a measure is ready for submission to the electors, the appropriate election official shall, in writing, notify the governing body and shall publish notice of the election and the ordinance which is to be proposed or amended. In the case of a referendum, the ordinance sought to be repealed shall be published.

(d) The question shall be placed on the ballot giving the electors a choice between accepting or rejecting the proposal.

(e) If a majority of those voting favor the proposal, it becomes effective when the election results are officially declared, unless otherwise stated in the proposal.

Section 10. Determination of the number of signatures required for a petition. In order to determine the number of signatures needed on a petition to meet the percentage requirements of this act, the number of electors shall be the number of individuals registered to vote at the last preceding general election for the local government.

Section 11. Operation of consolidated units of local government. (1) Whenever existing law contains different provisions and procedures for the functioning of counties and municipalities, including but not limited to such areas as election procedures, issuance of bonds, adoption of budgets, creation of special districts, levying of taxes, and provision of services, the governing body of a consolidated unit of local government which contains at least one county and one municipality shall, by ordinance, adopt either the county or municipality provisions. The ordinance may provide for necessary changes in the statutes to accommodate the structure of the consolidated unit. This subsection applies to self-government consolidated units only in those areas where such units are subject to state law under 47A-7-201 through

(2) A combination of county and municipal offices in a consolidated unit may be accomplished by ordinance whenever such a combination is necessary for carrying out a duty assigned by state law to the local government. Whenever state law imposes a duty upon a specific official or employee of a local government and the local government under its adopted alternative form of government does not have such an official or employee, the governing body may by ordinance assign that duty to the appropriate official or employee of the local government.

Section 12. Section 23 of Chapter 513 of Laws, 1975, is amended to read as follows:

"Section 23. Automatic repealer. This act, except for sections 4, 6, 14, 15, 16, and 17, terminates on June 30, 1977."

Section 13. Scope of act. Whenever the provisions of this act conflict with the provisions of other laws related to local government, the provisions of this act prevail.

Section 14. Definition. As used in this act, "chief executive" means the elected executive in a government adopting the commission-manager form, the chairman in a government adopting the commission-chairman form, the town chairman in a government adopting the town meeting form, the commission acting as a body in a government adopting the commission form, or the officer or officers so designated in the charter in a government adopting a charter.

Section 15. Effective date. This act is effective May 1, 1977."

AND AS SO AMENDED, DO PASS

Sen. George McCallum, Chairman

ROLL CALL

LOCAL GOVERNMENT COMMITTEE

45th LEGISLATIVE SESSION - - 1977 Date 2/14/77

NAME	PRESENT	ABSENT	EXCUSED
George McCallum	✓		
Robert Watt	✓		
Pete Story	✓		
Frank Dunkle	✓		
Lloyd Lockrem	✓		
Bob Peterson	✓		
Cornie Thiessen		✓	
Bill Thomas	✓		

MINUTES OF THE MEETING
LOCAL GOVERNMENT COMMITTEE
MONTANA STATE SENATE

March 30, 1977

The meeting of the Local Government Committee was called to order by Chairman McCallum on March 30, 1977 at 9:40 a.m. in Room 410 of the State Capitol Building.

ROLL CALL: All members were present with Senator Lockrem excused.

The following visitors were present:

Bill Hanson	UPI
Steve Turkiewicz	Mt. Assoc. of Counties
Tom Dowling	Mt. Sheriffs & Peace Officers
Cap Bryant	Mt. Sheriffs & Peace Officers

CONSIDERATION OF HOUSE BILL 195: Representative J.D. Lynch, chief sponsor of HB 195 appeared before the Committee. He explained that in the title of the bill the figure $2400 is misleading. It would only be a $1200 increase over and above what the schedule would allow presently which is also $1200. Every sheriff in the state would receive the increase, regardless of size or population of county.

Tom Dowling, Montana Sheriffs & Peace Officers, supported the bill. It would give each sheriff an additional $100 per month over and above the regular schedule. It would not depend on percentages.

Cap Bryant, Montana Sheriffs & Peace Officers, concurred with Mr. Dowling and Rep. Lynch and asked that the Committee give this a Be Concurred In recommendation.

Opponents: Steve Turkiewicz, Montana Association of Counties opposed this bill. All elected officials deserve additional salary increases but did not think this is the way to do it. Sheriffs and county superintendents already receive an additional $400 not included in the schedule. He didn't feel the taxpayers can afford to fund this 1.6 million dollar increase and ask that the committee does not concur in this bill.

DISCUSSION OF HOUSE BILL 195: Questions were asked by the committee members. It was mentioned that this would hit the smaller counties harder than the larger ones.

DISCUSSION OF SB 445: SB 445 has been sent back to this committee for possible amendments. Senator Turnage is working on the amendments and will appear before the committee to explain what he believes is in error in the bill. The Committee felt that in view of Sen. Lockrem being absent, it would be only fair to wait to consider this bill until his return.

Senator Turnage was concerned with the fact that it encompassed a great deal more than the Committee thought it did. The Committee did not intend to give the powers to non-chartered cities and counties and Senator Turnage interpreted it as encompassing all 56 counties. Senator McCallum mentioned that it was not as urgent that this bill get to the House in the next day or two as everyone has been led to believe. The House has already suspended the rules to accept it when it is sent over there. Senator Story said his main concern is that the House does not amend the bill to something we do not want.

DISPOSITION OF HB 195: Senator Thiessen moved that HB 195 BE NOT CONCURRED IN. Motion died for lack of a second.

Senator Watt moved that HB 195 be laid on the table for a time, seconded by Senator Thiessen. Motion carried with Dunkle voting no.

DISCUSSION OF HB 667: Senator Watt felt that HB 667, which is in subcommittee at the present time, should perhaps be rewritten striking everything following the enacting clause and encouraging the utilities and the cities to work toward this end. He doesn't feel that the legislature can directly mandate this.

DISCUSSION OF HB 521: Senator Dunkle reported that the subcommittee is working on this bill and he should have a report for the full Committee by at least Monday, April 4.

HJR 7 will be heard on Friday, April 1 and hopefully, HB 211 will be passed out of the Committee on that date.

Meeting adjourned at 10:25 a.m.

George McCallum

Senator George McCallum, Chairman

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MINUTES OF THE MEETING
LOCAL GOVERNMENT COMMITTEE
MONTANA STATE SENATE

April 4, 1977

The meeting of the Local Government Committee was called to order by Chairman McCallum on April 4 at 9:37 A. M. in Room 410 of the State Capitol Building.

ROLL CALL: All members were present except Senator Peterson, who was excused.

Senate Bill 445. Lon Maxwell, Legal Counsel, Judiciary Committee and Dave Cogley, Legislative Council, held a lengthy discussion with the committee on non-partisan elections.

Senator Thiessen moved Senator Turnage's amendment (attached) to Senate Bill 445. Senator Watt seconded the motion. Motion carried unanimously. Senator Thiessen moved the Committee of the Whole Amendment (attached) to Senate Bill 445. Senator Lockrem seconded the motion. Motion carried unanimously. Senator Thiessen moved Senate Bill 445 be given an "And As So Amended, Do Pass" recommendation. Senator Dunkle seconded the motion. Motion carried unanimously.

ADJOURN: The meeting adjourned at 10:35 A. M.

Senator George McCallum, Chairman

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Amendment to SB 445

Amend second reading copy

Amend page 6, section 5, line 12.
Following: line 11
Insert: "(10) This section merely provides a procedure for the adoption of ordinances, and shall not be construed as granting authority to enact ordinances."

COMMITTEE OF THE WHOLE AMENDMENT

MR. CHAIRMAN: I MOVE TO AMEND SENATE BILL NO. 445, second reading copy, as follows:

1. Amend page 13, section 11, line 11.
Following: "QPERATION OF"
Insert: "self-government"

2. Amend page 13, section 11, line 18.
Following: line 17
Insert: "self-government"

3. Amend page 14, section 11, line 2.
Following: line 1
Insert: "self-government"

4. Amend page 14, section 11, line 6
Following: "OF A"
Insert: "self-government consolidated unit of"

COMMITTEE OF THE WHOLE AMENDMENT

MR. CHAIRMAN: I MOVE TO AMEND SENATE BILL NO. 445, second reading copy, as follows:

1. Amend page 14, section 11, line 10.
Following: "GOVERNMENT."
Insert: "The governing body of any self-government consolidated unit of local government may by ordinance assign responsibility to carry out any function or provide any service required by state law to one or more departments, officers, or employees of the local government notwithstanding the fact that the state law may assign the function or service to a specific office."

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STANDING COMMITTEE REPORT

April 4 19 77

MR. President

We, your committee on Local Government

having had under consideration Senate Bill No. 445

Respectfully report as follows: That Senate Bill No. 445,

second reading bill, be amended as follows:

1. Amend page 6, section 5, line 12.
Following: line 11
Insert: "(10) This section merely provides a procedure for the adoption of ordinances, and shall not be construed as granting authority to enact ordinances."

2. Amend page 13, section 11, line 11.
Following: "OPERATION OF"
Insert: "self-government"

3. Amend page 13, section 11, line 18.
Following: line 17
Insert: "self-government"

4. Amend page 14, section 11, line 2.
Following: line 1
Insert: "self-government"

DO PASS AS AMD

Chairman.

STATE PUB. CO.
Helena, Mont.

April 12, 1977

A meeting of the Local Government Committee was called to order by Chairman Robbins at 9:05 AM in Room 437. The secretary called roll; Representatives Colburn, Gerke, Jensen, South and Waldron were absent. All other members were present.

SENATE BILL 445: Senator Lockrem, chief sponsor, said on suspension of rules this bill was introduced and it is basically a mechanical bill to allow those people who adopted self-government charters to function.

Sections 1, 2, and 3 provide for a procedure to conduct any non-partisan local government elections. The amendment on lines 20, 21, and 22, the Senate had strong feelings for this amendment.

Section 4 provides for amendments for self-government charters.

Sections 5 and 6 provides for procedures for the adoption and amendment of ordinances and resolutions and for the adoption of codes by reference.

Section 7 provides for penalties for violation of an ordinance.

Section 8 is resolution requirements.

Section 9 provides for the initiative and referendum.

Section 10 gives the necessary guidelines for determining the number of signatures needed on a petition.

Section 11 is needed to enable those local government which have chosen consolidation to function.

Section 12 removes certain sections of Chapter 513, Laws 1975, from the automatic repealer section of that chapter. The sections deal with the question of transition from one form of government to another and establishment of consolidated form of government.

Section 13 was stricken by Senator Turnage and Senator Lockrem didn't see any need to reinstate.

Section 14 now 13 is definitions.

Last section is the effective date.

There were no other proponents.

There were no opponents.

5. Amend page 14, section 11, line 6.
Following: "OF A"
Insert: "self-government consolidated unit of"

6. Amend page 14, section 11, line 10.
Following: "GOVERNMENT."
Insert: "The governing body of any self-government consolidated unit of local government may by ordinance assign responsibility to carry out any function or provide any service required by state law to one or more departments, officers, or employees of the local government notwithstanding the fact that the state law may assign the function or service to a specific office."

AND AS SO AMENDED, DO PASS

Senator George McCallum, Chairman

There was discussion by the committee.

Senator Lockrem closed on SB 445.

The committee went into executive session.

SENATE BILL 445: Representative Ramirez moved that SB 445 BE CONCURRED IN. Question, roll call vote was taken: 13 voted YES. Motion carried. Representatives Colburn, Gerke, Jensen, South, and Waldron were absent.

Respectfully submitted,

Hershel M. Robbins

HERSHEL M. ROBBINS, Chairman

yb

SENATE BILL NO. 445

INTRODUCED BY LOCKREM

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR NONPARTISAN ELECTIONS, TO PROVIDE FOR THE AMENDMENT OF SELF-GOVERNMENT CHARTERS OR ADOPTED ALTERNATIVE FORMS OF LOCAL GOVERNMENT, TO PROVIDE FOR ENACTMENT OF ORDINANCES AND RESOLUTIONS, TO PROVIDE FOR LOCAL GOVERNMENT INITIATIVE AND REFERENDUM, TO PROVIDE FOR THE OPERATION OF CONSOLIDATED UNITS OF LOCAL GOVERNMENT, AND TO OTHERWISE REVISE AND CLARIFY LOCAL GOVERNMENT LAWS; AMENDING SECTION 23 OF CHAPTER 513 OF LAWS, 1975; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Nonpartisan nomination. (1) Each candidate for a nonpartisan primary election shall send a declaration of nomination, as prescribed in 23-3304, to the appropriate election official of the local government in which he seeks office not later than 5 p.m. 40 days prior to the date of the primary election. THE DECLARATION SHALL BE ACCOMPANIED BY A PETITION SIGNED BY AT LEAST 25 ELECTORS OF THE LOCAL GOVERNMENT REQUESTING THE CANDIDACY.

(2) A candidate successfully completing the requirements of this section shall have his name entered on the nonpartisan primary election ballot as provided in [section 2].

Section 2. Nonpartisan primary ballot and election. (1) Except as otherwise provided in this section, a nonpartisan primary election shall be conducted, canvassed, and its results returned in the same manner as a partisan primary election.

(2) Ballots in a nonpartisan primary election shall contain only the name of the candidate and the office to which the candidate seeks election.

(3) Electors voting at a nonpartisan primary election may vote for the number of candidates to be elected to each office.

(4) If the number of candidates to be entered on the nonpartisan primary ballot for each office does not exceed twice the number of candidates to be elected for the respective offices, a nonpartisan primary election shall not be held in that year and all candidates entered on the nonpartisan primary ballot shall be considered nominated for their respective offices and shall have their names placed on the nonpartisan general election ballot. If the number of candidates to be entered on the nonpartisan primary ballot for any particular office does exceed twice the number of persons to be elected to that office, a primary election shall be held for all offices to be voted on at the general election.

REFERENCE BILL

(5) Candidates for nomination, equal to twice the number to be elected at the nonpartisan general election for that office, who receive the highest number of votes cast at the nonpartisan primary or nominees determined under subsection (4) of this section are nominees for office and shall have their names entered on the nonpartisan general election ballot.

(6) In municipalities with a population of 3,500 or less, a primary election is not required and candidates shall have their names entered on the general election ballot by filing a declaration of nomination not later than 5 p.m. 40 days before the date of the election.

Section 3. Nonpartisan general elections. A nonpartisan general election shall be conducted, canvassed, and its results returned in the same manner as a partisan general election except that party designation may not appear on the ballot.

Section 4. Amendment of self-government charters OR ADOPTED ALTERNATIVE FORMS OF GOVERNMENT. (1) An amendment to a self-government charter OR AN ADOPTED ALTERNATIVE FORM OF GOVERNMENT may only be made by submitting the question of amendment to the electors of the local government. To be effective, a proposed amendment must receive an affirmative vote of a majority of the electors voting on the question. An amendment approved by the electors becomes effective on

the first day of the local government fiscal year following the fiscal year of approval unless the question submitted to the electors provides otherwise.

(2) An amendment to a self-government charter OR AN ADOPTED ALTERNATIVE FORM OF GOVERNMENT may be proposed by initiative by petition of 15% of the electors of the local government or by ordinance enacted by the governing body. The question on ~~charter~~ amendment OF A CHARTER OR AN ADOPTED ALTERNATIVE FORM OF GOVERNMENT shall be submitted to the electors as soon as possible after the submission of a petition or enactment of a resolution, either at a regularly scheduled election or at a special election.

(3) The local government, by ordinance, may provide procedures for the submission and verification of initiative petitions.

SECTION 5. ORDINANCE REQUIREMENTS. (1) ALL ORDINANCES SHALL BE SUBMITTED IN WRITING IN THE FORM PRESCRIBED BY RESOLUTION OF THE GOVERNING BODY.

(2) NO ORDINANCE PASSED SHALL CONTAIN MORE THAN ONE COMPREHENSIVE SUBJECT WHICH SHALL BE CLEARLY EXPRESSED IN ITS TITLE. EXCEPT ORDINANCES FOR CODIFICATION AND REVISION OF ORDINANCES.

(3) AN ORDINANCE MUST BE READ AND ADOPTED BY A MAJORITY VOTE OF MEMBERS PRESENT AT TWO MEETINGS OF THE GOVERNING BODY NOT LESS THAN 12 DAYS APART. AFTER THE FIRST

SENATE BILL NO. 445

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(4) If the number of candidates to be entered on the nonpartisan primary ballot for each office does not exceed twice the number of candidates to be elected for the respective offices, a nonpartisan primary election shall not be held in that year and all candidates entered on the nonpartisan primary ballot shall be considered nominated for their respective offices and shall have their names placed on the nonpartisan general election ballot. If the number of candidates to be entered on the nonpartisan primary ballot for any particular office does exceed twice the number of persons to be elected to that office, a primary election shall be held for all offices to be voted on at the general election.

REFERENCE BILL

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the first day of the local government fiscal year following the fiscal year of approval unless the question submitted to the electors provides otherwise.

(2) An amendment to a self-government charter OR AN ADOPTED ALTERNATIVE FORM OF GOVERNMENT may be proposed by initiative by petition of 15% of the electors of the local government or by ordinance enacted by the governing body. The question on ~~charter~~ amendment OF A CHARTER OR AN ADOPTED ALTERNATIVE FORM OF GOVERNMENT shall be submitted to the electors as soon as possible after the submission of a petition or enactment of a resolution, either at a regularly scheduled election or at a special election.

(3) The local government, by ordinance, may provide procedures for the submission and verification of initiative petitions.

SECTION 5. ORDINANCE REQUIREMENTS. (1) ALL ORDINANCES SHALL BE SUBMITTED IN WRITING IN THE FORM PRESCRIBED BY RESOLUTION OF THE GOVERNING BODY.

(2) NO ORDINANCE PASSED SHALL CONTAIN MORE THAN ONE COMPREHENSIVE SUBJECT WHICH SHALL BE CLEARLY EXPRESSED IN ITS TITLE, EXCEPT ORDINANCES FOR CODIFICATION AND REVISION OF ORDINANCES.

(3) AN ORDINANCE MUST BE READ AND ADOPTED BY A MAJORITY VOTE OF MEMBERS PRESENT AT TWO MEETINGS OF THE GOVERNING BODY NOT LESS THAN 12 DAYS APART. AFTER THE FIRST

ADOPTION AND READING. IT MUST BE POSTED AND COPIES MADE AVAILABLE TO THE PUBLIC.

(4) IN THE EVENT OF AN EMERGENCY, THE GOVERNING BODY MAY WAIVE THE SECOND READING. AN ORDINANCE PASSED IN RESPONSE TO AN EMERGENCY SHALL RECITE THE FACTS GIVING RISE TO THE EMERGENCY AND REQUIRES A TWO-THIRDS VOTE OF THE WHOLE GOVERNING BODY FOR PASSAGE. AN EMERGENCY ORDINANCE SHALL BE EFFECTIVE ON PASSAGE AND APPROVAL AND SHALL REMAIN EFFECTIVE FOR NO MORE THAN 90 DAYS.

(5) AFTER PASSAGE AND APPROVAL, ALL ORDINANCES SHALL BE SIGNED BY THE CHAIRMAN OF THE GOVERNING BODY AND FILED WITH THE OFFICIAL OR EMPLOYEE DESIGNATED BY ORDINANCE TO KEEP THE REGISTER OF ORDINANCES.

(6) NO ORDINANCE OTHER THAN AN EMERGENCY ORDINANCE SHALL BE EFFECTIVE UNTIL 30 DAYS AFTER SECOND AND FINAL ADOPTION. THE ORDINANCE MAY PROVIDE FOR A DELAYED EFFECTIVE DATE OR MAY PROVIDE FOR THE ORDINANCE TO BECOME EFFECTIVE UPON THE FULFILLMENT OF AN INDICATED CONTINGENCY.

(7) IF THE PLAN OF GOVERNMENT ALLOWS THE CHIEF EXECUTIVE TO VETO AN ORDINANCE, THIS POWER MUST BE EXERCISED IN WRITING PRIOR TO ITS NEXT REGULARLY SCHEDULED MEETING OF THE GOVERNING BODY. WHENEVER THE CHIEF EXECUTIVE VETOES AN ORDINANCE, THE GOVERNING BODY MUST ACT AT THE NEXT REGULARLY SCHEDULED MEETING TO EITHER OVERRIDE OR CONFIRM THE VETO. WHENEVER THE VETO IS OVERRIDDEN OR THE EXECUTIVE FAILS TO

ACT, THE ORDINANCE SHALL TAKE EFFECT.

(8) THERE SHALL BE MAINTAINED A REGISTER OF ORDINANCES IN WHICH ALL ORDINANCES ARE ENTERED IN FULL AFTER PASSAGE AND APPROVAL, EXCEPT WHEN A CODE IS ADOPTED BY REFERENCE. WHEN A CODE IS ADOPTED BY REFERENCE, THE DATE AND SOURCE OF THE CODE SHALL BE ENTERED.

(9) (A) NO LATER THAN 1980 AND AT 5-YEAR INTERVALS THEREAFTER APPROPRIATE ORDINANCES SHALL BE COMPILED INTO A UNIFORM CODE AND PUBLISHED.

(B) THE RECODIFICATION IS NOT EFFECTIVE UNTIL APPROVED BY THE GOVERNING BODY.

(10) THIS SECTION MERELY PROVIDES A PROCEDURE FOR THE ADOPTION OF ORDINANCES, AND SHALL NOT BE CONSTRUED AS GRANTING AUTHORITY TO ADOPT ORDINANCES.

SECTION 6. ADOPTION AND AMENDMENT OF CODES BY REFERENCE. (1) ANY LOCAL GOVERNMENT MAY ADOPT OR REPEAL AN ORDINANCE WHICH INCORPORATES BY REFERENCE THE PROVISIONS OF ANY CODE OR PORTIONS OF ANY CODE, OR ANY AMENDMENT THEREOF, PROPERLY IDENTIFIED AS TO DATE AND SOURCE, WITHOUT SETTING FORTH THE PROVISIONS OF THE CODE IN FULL. NOTICE OF THE INTENT TO ADOPT A CODE BY REFERENCE SHALL BE PUBLISHED AFTER FIRST READING AND PRIOR TO FINAL ADOPTION OF THE CODE. AT LEAST ONE COPY OF THE CODE, PORTION, OR AMENDMENT WHICH IS INCORPORATED OR ADOPTED BY REFERENCE SHALL BE FILED IN THE OFFICE OF THE CLERK OF THE GOVERNING BODY AND THERE KEPT

AVAILABLE FOR PUBLIC USE, INSPECTION, AND EXAMINATION. THE FILING REQUIREMENTS HEREIN PRESCRIBED SHALL NOT BE CONSIDERED TO BE COMPLIED WITH UNLESS THE REQUIRED COPIES OF THE CODES, PORTION, AMENDMENT, OR PUBLIC RECORD ARE FILED WITH THE CLERK OF THE GOVERNING BODY FOR A PERIOD OF 30 DAYS PRIOR TO FINAL ADOPTION OF THE ORDINANCE WHICH INCORPORATES THE CODE, PORTION, OR AMENDMENT BY REFERENCE.

(2) THE GOVERNING BODY MAY ADOPT OR AMEND A CODE BY REFERENCE BY AN EMERGENCY ORDINANCE AND WITHOUT NOTICE. THE EMERGENCY ORDINANCE IS AUTOMATICALLY REPEALED 90 DAYS FOLLOWING ITS ADOPTION AND CANNOT BE REENACTED AS AN EMERGENCY ORDINANCE.

(3) THE PROCESS FOR REPEALING AN ORDINANCE WHICH ADOPTED OR AMENDED A CODE BY REFERENCE SHALL BE THE SAME AS FOR REPEALING ANY OTHER ORDINANCE.

(4) THE FILING REQUIREMENT OF SUBSECTION (1) OF THIS SECTION SHALL BE COMPLIED WITH IN ADOPTING AMENDMENTS TO CODES.

(5) ANY ORDINANCE ADOPTING A CODE, PORTION, OR AMENDMENT BY REFERENCE SHALL STATE THE PENALTY FOR VIOLATING THE CODE, PORTION, OR AMENDMENT, OR ANY PROVISION THEREOF SEPARATELY, AND NO PART OF ANY PENALTY SHALL BE INCORPORATED BY REFERENCE.

(6) FOR PURPOSES OF THIS SECTION, "CODE" MEANS ANY PUBLISHED COMPILATION OF RULES WHICH HAS BEEN PREPARED BY

VARIOUS TECHNICAL TRADE ASSOCIATIONS, MODEL CODE ORGANIZATIONS, FEDERAL AGENCIES, OR THIS STATE OR ANY AGENCY THEREOF; AND SHALL INCLUDE SPECIFICALLY BUT SHALL NOT BE LIMITED TO: TRAFFIC CODES, BUILDING CODES, PLUMBING CODES, ELECTRICAL WIRING CODES, HEALTH OR SANITATION CODES, FIRE PREVENTION CODES, INFLAMMABLE LIQUIDS CODES, TOGETHER WITH ANY OTHER CODE WHICH EMBRACES RULES PERTINENT TO A SUBJECT WHICH IS A PROPER LOCAL GOVERNMENT LEGISLATIVE MATTER.

SECTION 7. PENALTY FOR VIOLATION OF ORDINANCE. A LOCAL GOVERNMENT MAY FIX PENALTIES FOR THE VIOLATION OF AN ORDINANCE WHICH DO NOT EXCEED A FINE OF $500 OR 6 MONTHS' IMPRISONMENT OR BOTH THE FINE AND IMPRISONMENT.

SECTION 8. RESOLUTION REQUIREMENTS. (1) ALL RESOLUTIONS SHALL BE SUBMITTED IN THE FORM PRESCRIBED BY RESOLUTION OF THE GOVERNING BODY.

(2) RESOLUTIONS MAY BE SUBMITTED AND ADOPTED AT A SINGLE MEETING OF THE GOVERNING BODY.

(3) IF THE PLAN OF GOVERNMENT ALLOWS THE EXECUTIVE TO VETO RESOLUTIONS, THIS POWER MUST BE ~~IMMEDIATELY~~ EXERCISED IN WRITING AT THE ~~SAME~~ NEXT REGULAR MEETING. IF THE EXECUTIVE FAILS TO ACT, THE RESOLUTION SHALL BE APPROVED. IF THE EXECUTIVE VETOES A RESOLUTION, THE GOVERNING BODY MUST ACT AT THE SAME MEETING OR ITS NEXT REGULARLY SCHEDULED MEETING TO EITHER OVERRIDE OR CONFIRM THE VETO.

(4) AFTER PASSAGE AND APPROVAL, ALL RESOLUTIONS SHALL

BE ENTERED INTO THE MINUTES AND SIGNED BY THE CHAIRPERSON OF THE GOVERNING BODY.

(5) ALL RESOLUTIONS SHALL BE IMMEDIATELY EFFECTIVE UNLESS A DELAYED EFFECTIVE DATE IS SPECIFIED.

SECTION 9. INITIATIVE AND REFERENDUM. (1) THE POWERS OF INITIATIVE AND REFERENDUM ARE RESERVED TO THE ELECTORS OF EACH LOCAL GOVERNMENT. RESOLUTIONS AND ORDINANCES WITHIN THE LEGISLATIVE JURISDICTION AND POWER OF THE GOVERNING BODY OF THE LOCAL GOVERNMENT, EXCEPT THOSE SET OUT IN SUBSECTION (2) OF THIS SECTION, MAY BE PROPOSED OR AMENDED AND PRIOR RESOLUTIONS AND ORDINANCES MAY BE REPEALED IN THE MANNER PROVIDED IN THIS SECTION.

(2) THE POWERS OF INITIATIVE SHALL NOT EXTEND TO THE FOLLOWING:

(A) THE ANNUAL BUDGET;

~~(b) --property-tax-levies;~~

~~(c)~~(B) BOND PROCEEDINGS, EXCEPT FOR ORDINANCES AUTHORIZING BONDS.

~~(d)~~(C) THE ESTABLISHMENT AND COLLECTION OF CHARGES PLEDGED FOR THE PAYMENT OF PRINCIPAL AND INTEREST ON BONDS; OR

~~(e)~~(D) THE LEVY OF SPECIAL ASSESSMENTS PLEDGED FOR THE PAYMENT OF PRINCIPAL AND INTEREST ON BONDS.

(3) THE ELECTORS MAY INITIATE AND AMEND ORDINANCES AND REQUIRE SUBMISSION OF EXISTING ORDINANCES TO A VOTE OF THE

PEOPLE BY PETITION. IF SUBMITTED PRIOR TO THE ORDINANCE'S EFFECTIVE DATE, A PETITION REQUESTING A REFERENDUM ON THE ORDINANCE SHALL DELAY THE ORDINANCE'S EFFECTIVE DATE UNTIL THE ORDINANCE IS RATIFIED BY THE ELECTORS. A PETITION REQUESTING A REFERENDUM ON AN EMERGENCY ORDINANCE FILED WITHIN 30 DAYS OF ITS EFFECTIVE DATE SHALL SUSPEND THE ORDINANCE UNTIL RATIFIED BY THE ELECTORS.

(4) THE GOVERNING BODY MAY REFER EXISTING OR PROPOSED ORDINANCES TO A VOTE OF THE PEOPLE BY RESOLUTION.

(5) A PETITION OR RESOLUTION FOR INITIATIVE OR REFERENDUM SHALL:

(A) EMBRACE ONLY A SINGLE COMPREHENSIVE SUBJECT;

(B) SET OUT FULLY THE ORDINANCE SOUGHT BY PETITIONERS, OR IN THE CASE OF AN AMENDMENT, SET OUT FULLY THE ORDINANCE SOUGHT TO BE AMENDED AND THE PROPOSED AMENDMENT, OR IN THE CASE OF REFERENDUM, SET OUT THE ORDINANCE SOUGHT TO BE REPEALED; AND

(C) CONTAIN THE SIGNATURES OF 15% OF THE ELECTORS OF THE LOCAL GOVERNMENT.

(6) (A) THE GOVERNING BODY MAY, WITHIN 60 DAYS OF RECEIVING THE PETITION, TAKE THE ACTION CALLED FOR IN THE PETITION. IF THE ACTION IS TAKEN, THE QUESTION NEED NOT BE SUBMITTED TO THE ELECTORS.

(B) IF THE GOVERNING BODY DOES NOT, WITHIN 60 DAYS, TAKE THE PROPOSED ACTION, THEN THE QUESTION SHALL BE

SUBMITTED TO THE ELECTORS AT THE NEXT SCHOOL, PRIMARY, OR GENERAL ELECTION OR A SPECIAL ELECTION CALLED FOR THAT PURPOSE. BEFORE SUBMITTING THE QUESTION TO THE ELECTORS, THE GOVERNING BODY MAY DIRECT THAT A SUIT BE BROUGHT IN DISTRICT COURT BY THE LOCAL GOVERNMENT TO DETERMINE WHETHER THE PETITION IS REGULAR IN FORM, HAS SUFFICIENT SIGNATURES, AND WHETHER THE PROPOSED ACTION WOULD BE VALID AND CONSTITUTIONAL.

(C) THE COMPLAINT SHALL NAME AS DEFENDANTS NOT LESS THAN 10 OR MORE THAN 20 OF THE PETITIONERS. IN ADDITION TO THE NAMES OF THE DEFENDANTS, TO THE CAPTION OF THE COMPLAINT THERE SHALL BE ADDED THE WORDS: "AND ALL PETITIONERS WHOSE NAMES APPEAR ON THE PETITION FOR AN ORDINANCE FILED ON THE ..... DAY OF ..... IN THE YEAR .....", STATING THE DATE OF FILING. THE SUMMONS SHALL BE SIMILARLY DIRECTED AND SHALL BE SERVED ON THE DEFENDANTS NAMED THEREIN, AND IN ADDITION SHALL BE PUBLISHED.

(D) IF AN ORDINANCE IS REPEALED OR ENACTED PURSUANT TO A PROPOSAL INITIATED BY THE ELECTORS OF A LOCAL GOVERNMENT, THE GOVERNING BODY MAY NOT FOR 2 YEARS REENACT OR REPEAL THE ORDINANCE. IF DURING THE 2-YEAR PERIOD THE GOVERNING BODY ENACTS AN ORDINANCE SIMILAR TO THE ONE REPEALED PURSUANT TO A REFERENDUM OF THE ELECTORS, A SUIT MAY BE BROUGHT TO DETERMINE WHETHER THE NEW ORDINANCE IS A REENACTMENT WITHOUT MATERIAL CHANGE OF THE REPEALED ORDINANCE. THIS SECTION

SHALL NOT PREVENT EXERCISE OF THE INITIATIVE, AT ANY TIME, TO PROCURE A REENACTMENT OF AN ORDINANCE REPEALED PURSUANT TO REFERENDUM OF THE ELECTORS.

(7) (A) ANY ORDINANCE PROPOSED BY PETITION OR ANY AMENDED ORDINANCE PROPOSED BY PETITION OR ANY REFERENDUM ON AN ORDINANCE WHICH IS ENTITLED TO BE SUBMITTED TO THE ELECTORS SHALL BE VOTED ON AT THE NEXT REGULAR ELECTION TO BE HELD IN THE LOCAL GOVERNMENT UNLESS:

(I) THE PETITION ASKS THAT THE QUESTION BE SUBMITTED AT A SPECIAL ELECTION AND IS SIGNED BY AT LEAST 25% OF THE ELECTORS OF THE LOCAL GOVERNMENT, IN WHICH CASE THE GOVERNING BODY SHALL CALL A SPECIAL ELECTION; OR

(II) THE GOVERNING BODY CALLS FOR A SPECIAL ELECTION ON THE QUESTION.

(B) IF THE ADEQUACY OF THE PETITION IS DETERMINED BY THE ELECTIONS ADMINISTRATOR LESS THAN 45 DAYS PRIOR TO THE NEXT REGULAR ELECTION, THE ELECTION SHALL BE DELAYED UNTIL THE FOLLOWING REGULAR ELECTION, UNLESS A SPECIAL ELECTION IS CALLED.

(C) WHENEVER A MEASURE IS READY FOR SUBMISSION TO THE ELECTORS, THE APPROPRIATE ELECTION OFFICIAL SHALL, IN WRITING, NOTIFY THE GOVERNING BODY AND SHALL PUBLISH NOTICE OF THE ELECTION AND THE ORDINANCE WHICH IS TO BE PROPOSED OR AMENDED. IN THE CASE OF A REFERENDUM, THE ORDINANCE SOUGHT TO BE REPEALED SHALL BE PUBLISHED.

(D) THE QUESTION SHALL BE PLACED ON THE BALLOT GIVING THE ELECTORS A CHOICE BETWEEN ACCEPTING OR REJECTING THE PROPOSAL.

(E) IF A MAJORITY OF THOSE VOTING FAVOR THE PROPOSAL, IT BECOMES EFFECTIVE WHEN THE ELECTION RESULTS ARE OFFICIALLY DECLARED, UNLESS OTHERWISE STATED IN THE PROPOSAL.

SECTION 10. DETERMINATION OF THE NUMBER OF SIGNATURES REQUIRED FOR A PETITION. IN ORDER TO DETERMINE THE NUMBER OF SIGNATURES NEEDED ON A PETITION TO MEET THE PERCENTAGE REQUIREMENTS OF THIS ACT, THE NUMBER OF ELECTORS SHALL BE THE NUMBER OF INDIVIDUALS REGISTERED TO VOTE AT THE LAST PRECEDING GENERAL ELECTION FOR THE LOCAL GOVERNMENT.

SECTION 11. OPERATION OF SELF-GOVERNMENT CONSOLIDATED UNITS OF LOCAL GOVERNMENT. (1) WHENEVER EXISTING LAW CONTAINS DIFFERENT PROVISIONS AND PROCEDURES FOR THE FUNCTIONING OF COUNTIES AND MUNICIPALITIES, INCLUDING BUT NOT LIMITED TO SUCH AREAS AS ELECTION PROCEDURES, ISSUANCE OF BONDS, ADOPTION OF BUDGETS, CREATION OF SPECIAL DISTRICTS, LEVYING OF TAXES, AND PROVISION OF SERVICES, THE GOVERNING BODY OF A SELF-GOVERNMENT CONSOLIDATED UNIT OF LOCAL GOVERNMENT WHICH CONTAINS AT LEAST ONE COUNTY AND ONE MUNICIPALITY SHALL, BY ORDINANCE, ADOPT EITHER THE COUNTY OR MUNICIPALITY PROVISIONS. THE ORDINANCE MAY PROVIDE FOR NECESSARY CHANGES IN THE STATUTES TO ACCOMMODATE THE

STRUCTURE OF THE CONSOLIDATED UNIT. THIS SUBSECTION APPLIES TO SELF-GOVERNMENT CONSOLIDATED UNITS ONLY IN THOSE AREAS WHERE SUCH UNITS ARE SUBJECT TO STATE LAW UNDER 47A-7-201 THROUGH 47A-7-204.

(2) A COMBINATION OF COUNTY AND MUNICIPAL OFFICES IN A SELF-GOVERNMENT CONSOLIDATED UNIT MAY BE ACCOMPLISHED BY ORDINANCE WHENEVER SUCH A COMBINATION IS NECESSARY FOR CARRYING OUT A DUTY ASSIGNED BY STATE LAW TO THE LOCAL GOVERNMENT. WHENEVER STATE LAW IMPOSES A DUTY UPON A SPECIFIC OFFICIAL OR EMPLOYEE OF A SELF-GOVERNMENT CONSOLIDATED UNIT OF LOCAL GOVERNMENT AND THE LOCAL GOVERNMENT UNDER ITS ADOPTED ALTERNATIVE FORM OF GOVERNMENT DOES NOT HAVE SUCH AN OFFICIAL OR EMPLOYEE, THE GOVERNING BODY MAY BY ORDINANCE ASSIGN THAT DUTY TO THE APPROPRIATE OFFICIAL OR EMPLOYEE OF THE LOCAL GOVERNMENT. THE GOVERNING BODY OF ANY SELF-GOVERNMENT CONSOLIDATED UNIT OF LOCAL GOVERNMENT MAY BY ORDINANCE ASSIGN RESPONSIBILITY TO CARRY OUT ANY FUNCTION OR PROVIDE ANY SERVICE REQUIRED BY STATE LAW TO ONE OR MORE DEPARTMENTS, OFFICERS, OR EMPLOYEES OF THE LOCAL GOVERNMENT NOTWITHSTANDING THE FACT THAT THE STATE LAW MAY ASSIGN THE FUNCTION OR SERVICE TO A SPECIFIC OFFICE.

SECTION 12. SECTION 23 OF CHAPTER 513 OF LAWS, 1975, IS AMENDED TO READ AS FOLLOWS:

"Section 23. Automatic repealer. This act, except for sections 4, 6, 14, 15, 16, and 17, terminates on June 30,

1977."

~~SECTION 13. SCOPE OF ACT. WHENEVER THE PROVISIONS OF THIS ACT CONFLICT WITH THE PROVISIONS OF OTHER LAWS RELATED TO LOCAL GOVERNMENT, THE PROVISIONS OF THIS ACT PREVAIL.~~

SECTION 13. DEFINITION. AS USED IN THIS ACT, "CHIEF EXECUTIVE" MEANS THE ELECTED EXECUTIVE IN A GOVERNMENT ADOPTING THE COMMISSION-MANAGER FORM, THE CHAIRMAN IN A GOVERNMENT ADOPTING THE COMMISSION-CHAIRMAN FORM, THE TOWN CHAIRMAN IN A GOVERNMENT ADOPTING THE TOWN MEETING FORM, THE COMMISSION ACTING AS A BODY IN A GOVERNMENT ADOPTING THE COMMISSION FORM, OR THE OFFICER OR OFFICERS SO DESIGNATED IN THE CHARTER IN A GOVERNMENT ADOPTING A CHARTER.

SECTION 14. EFFECTIVE DATE. THIS ACT IS EFFECTIVE MAY 1, 1977.

-End-